

Senate File 364 - Introduced

SENATE FILE 364
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 226)

A BILL FOR

1 An Act relating to the licensure of orthotists, prosthetists,
2 and pedorthists and providing for fees and penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.1, subsections 3 and 6, Code 2011,
2 are amended to read as follows:

3 3. "*Licensed*" or "*certified*", when applied to a physician
4 and surgeon, podiatric physician, osteopathic physician and
5 surgeon, physician assistant, psychologist, chiropractor,
6 nurse, dentist, dental hygienist, dental assistant,
7 optometrist, speech pathologist, audiologist, pharmacist,
8 physical therapist, physical therapist assistant, occupational
9 therapist, occupational therapy assistant, orthotist,
10 prosthetist, pedorthist, respiratory care practitioner,
11 practitioner of cosmetology arts and sciences, practitioner
12 of barbering, funeral director, dietitian, marital and
13 family therapist, mental health counselor, social worker,
14 massage therapist, athletic trainer, acupuncturist, nursing
15 home administrator, hearing aid dispenser, or sign language
16 interpreter or transliterator means a person licensed under
17 this subtitle.

18 6. "*Profession*" means medicine and surgery, podiatry,
19 osteopathic medicine and surgery, practice as a physician
20 assistant, psychology, chiropractic, nursing, dentistry,
21 dental hygiene, dental assisting, optometry, speech pathology,
22 audiology, pharmacy, physical therapy, physical therapist
23 assisting, occupational therapy, occupational therapy
24 assisting, respiratory care, cosmetology arts and sciences,
25 barbering, mortuary science, marital and family therapy, mental
26 health counseling, social work, dietetics, massage therapy,
27 athletic training, acupuncture, nursing home administration,
28 hearing aid dispensing, ~~or~~ sign language interpreting or
29 transliterating, orthotics, prosthetics, or pedorthics.

30 Sec. 2. Section 147.2, subsection 1, Code 2011, is amended
31 to read as follows:

32 1. A person shall not engage in the practice of medicine
33 and surgery, podiatry, osteopathic medicine and surgery,
34 psychology, chiropractic, physical therapy, physical
35 therapist assisting, nursing, dentistry, dental hygiene,

1 dental assisting, optometry, speech pathology, audiology,
2 occupational therapy, occupational therapy assisting,
3 orthotics, prosthetics, pedorthics, respiratory care,
4 pharmacy, cosmetology arts and sciences, barbering, social
5 work, dietetics, marital and family therapy or mental health
6 counseling, massage therapy, mortuary science, athletic
7 training, acupuncture, nursing home administration, hearing aid
8 dispensing, or sign language interpreting or transliterating,
9 or shall not practice as a physician assistant, unless the
10 person has obtained a license for that purpose from the board
11 for the profession.

12 Sec. 3. Section 147.13, Code 2011, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 24. For orthotics, prosthetics, and
15 pedorthics, the board of orthotics, prosthetics, and
16 pedorthics.

17 Sec. 4. Section 147.14, subsection 1, Code 2011, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. x. For the board of orthotics, prosthetics,
20 and pedorthics, three persons licensed to practice orthotics,
21 prosthetics, or pedorthics who have engaged in the practice
22 of orthotics, prosthetics, or pedorthics in Iowa for at least
23 three years immediately preceding their appointment to the
24 board and two members who are not licensed to practice and who
25 shall represent the general public.

26 Sec. 5. Section 147.74, Code 2011, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 24. a. An orthotist licensed under chapter
29 148F may use the words "licensed orthotist" after the person's
30 name or signify the same by the use of the letters "L.O." after
31 the person's name.

32 b. A pedorthist licensed under chapter 148F may use the
33 words "licensed pedorthist" after the person's name or signify
34 the same by the use of the letters "L.ped." after the person's
35 name.

1 c. A prosthetist licensed under chapter 148F may use the
2 words "licensed prosthetist" after the person's name or signify
3 the same by the use of the letters "L.P." after the person's
4 name.

5 Sec. 6. NEW SECTION. 148F.1 Title and purpose.

6 1. This chapter may be cited and referred to as the
7 "*Orthotics, Prosthetics, and Pedorthics Practice Act*".

8 2. The purpose of this chapter is to provide for the
9 regulation of persons offering orthotic, prosthetic, and
10 pedorthic services to the public in order to safeguard the
11 public health, safety, and welfare.

12 Sec. 7. NEW SECTION. 148F.2 Definitions.

13 As used in this chapter:

14 1. "*Board*" means the board of orthotics, prosthetics, and
15 pedorthics.

16 2. "*Orthosis*" means a custom-fabricated or custom-fitted
17 brace or support designed to provide for alignment, correction,
18 or prevention of neuromuscular or musculoskeletal dysfunction,
19 disease, injury, or deformity. "*Orthosis*" does not include
20 fabric or elastic supports, corsets, arch supports, low
21 temperature plastic splints, trusses, elastic hoses, canes,
22 crutches, soft cervical collars, dental appliances, or other
23 similar devices carried in stock and sold as "over-the-counter"
24 items by a drug store, department store, corset shop, or
25 surgical supply facility.

26 3. "*Orthotic and prosthetic education program*" means a course
27 of instruction accredited by the commission on accreditation
28 of allied health education programs, consisting of both of the
29 following:

30 a. A basic curriculum of college level instruction in math,
31 physics, biology, chemistry, and psychology.

32 b. A specific curriculum in orthotic or prosthetic courses,
33 including but not limited to:

34 (1) Lectures covering pertinent anatomy, biomechanics,
35 pathomechanics, prosthetic-orthotic components and materials,

1 training and functional capabilities, prosthetic or orthotic
2 performance evaluation, prescription considerations, etiology
3 of amputations and disease processes necessitating prosthetic
4 or orthotic use, and medical management.

5 (2) Subject matter related to pediatric and geriatric
6 problems.

7 (3) Instruction in acute care techniques, such as immediate
8 and early post-surgical prosthetics and fracture bracing
9 techniques.

10 (4) Lectures, demonstrations, and laboratory experiences
11 related to the entire process of measuring, casting, fitting,
12 fabricating, aligning, and completing prostheses or orthoses.

13 4. "*Orthotic and prosthetic scope of practice*" means a
14 list of tasks, with relative weight given to such factors
15 as importance, criticality, and frequency, based on
16 internationally accepted standards of orthotic and prosthetic
17 care as outlined by the international society of prosthetics
18 and orthotics' professional profile for category I and category
19 III orthotic and prosthetic personnel.

20 5. "*Orthotics*" means the science and practice of evaluating,
21 measuring, designing, fabricating, assembling, fitting,
22 adjusting, or servicing an orthosis under an order from a
23 licensed physician or podiatric physician for the correction or
24 alleviation of neuromuscular or musculoskeletal dysfunction,
25 disease, injury, or deformity.

26 6. "*Orthotist*" means a health care professional,
27 specifically educated and trained in orthotic patient care,
28 who measures, designs, fabricates, fits, or services orthoses
29 and may assist in the formulation of the order and treatment
30 plan of orthoses for the support or correction of disabilities
31 caused by neuromusculoskeletal diseases, injuries, or
32 deformities.

33 7. "*Pedorthic device*" means therapeutic shoes, such as
34 diabetic shoes and inserts, shoe modifications made for
35 therapeutic purposes, below-the-ankle partial foot prostheses,

1 and foot orthoses for use at the ankle or below. The term also
2 includes subtalar-control foot orthoses designed to manage the
3 function of the anatomy by controlling the range of motion of
4 the subtalar joint. Excluding pedorthic devices which are
5 footwear, the proximal height of a custom pedorthic device
6 does not extend beyond the junction of the gastrocnemius and
7 the Achilles tendon. "*Pedorthic device*" does not include
8 nontherapeutic inlays or footwear regardless of method of
9 manufacture; unmodified, nontherapeutic over-the-counter shoes;
10 or prefabricated foot care products.

11 8. "*Pedorthic education program*" means an educational
12 program accredited by the national commission on orthotic and
13 prosthetic education consisting of all of the following:

14 a. A basic curriculum of instruction in foot-related
15 pathology of diseases, anatomy, and biomechanics.

16 b. A specific curriculum in pedorthic courses, including
17 lectures covering shoes, foot orthoses, and shoe modifications,
18 pedorthic components and materials, training and functional
19 capabilities, pedorthic performance evaluation, prescription
20 considerations, etiology of disease processes necessitating
21 use of pedorthic devices, medical management, subject matter
22 related to pediatric and geriatric problems, and lectures,
23 demonstrations, and laboratory experiences related to the
24 entire process of measuring and casting, fitting, fabricating,
25 aligning, and completing pedorthic devices.

26 9. "*Pedorthic scope of practice*" means a list of tasks
27 with relative weight given to such factors as importance,
28 criticality, and frequency based on nationally accepted
29 standards of pedorthic care as outlined by the national
30 commission on orthotic and prosthetic education comprehensive
31 analysis with an empirical validation study of the profession
32 performed by an independent testing company.

33 10. "*Pedorthics*" means the science and practice of
34 evaluating, measuring, designing, fabricating, assembling,
35 fitting, adjusting, or servicing a pedorthic device under an

1 order from a licensed physician or podiatric physician for the
2 correction or alleviation of neuromuscular or musculoskeletal
3 dysfunction, disease, injury, or deformity.

4 11. "*Pedorthist*" means a health care professional,
5 specifically educated and trained in pedorthic patient
6 care, who measures, designs, fabricates, fits, or services
7 pedorthic devices and may assist in the formulation of the
8 order and treatment plan of pedorthic devices for the support
9 or correction of disabilities caused by neuromusculoskeletal
10 diseases, injuries, or deformities.

11 12. "*Prosthesis*" means an artificial medical device that
12 is not surgically implanted and that is used to replace a
13 missing limb, appendage, or any other external human body part
14 including an artificial limb, hand, or foot.

15 13. "*Prosthetics*" means the science and practice of
16 evaluating, measuring, designing, fabricating, assembling,
17 fitting, adjusting, or servicing a prosthesis under an order
18 from a licensed physician.

19 14. "*Prosthetist*" means a health care professional,
20 specifically educated and trained in prosthetic patient care,
21 who measures, designs, fabricates, fits, or services prostheses
22 and may assist in the formulation of the order and treatment
23 plan of prostheses for the replacement of external parts of the
24 human body lost due to amputation or congenital deformities or
25 absences.

26 15. "*Resident*" means a person who has completed an education
27 program in either orthotics or prosthetics and is continuing
28 the person's clinical education in a residency accredited by
29 the national commission on orthotic and prosthetic education.

30 16. "*Residency*" means an approved supervised program of
31 a minimum duration of one year to acquire practical clinical
32 training in orthotics or prosthetics in a patient care setting.

33 Sec. 8. NEW SECTION. 148F.3 Duties of the board.

34 The board shall administer this chapter. The board's duties
35 shall include but are not limited to the following:

1 1. Adoption of rules to administer and interpret this
2 chapter, chapter 147, and chapter 272C with respect to the
3 education and licensing of orthotists, prosthetists, and
4 pedorthists.

5 2. Adoption of rules to establish accepted standards of
6 orthotic and prosthetic scope of practice, including the
7 classification of devices and supervision of nonlicensed
8 caregivers.

9 3. Adoption of rules relating to professional conduct and
10 licensing and the establishment of ethical and professional
11 standards of practice.

12 4. Acting on matters concerning licensure and the process
13 of applying for, granting, suspending, imposing supervisory
14 or probationary conditions upon, reinstating, revoking, or
15 renewing a license.

16 5. Establishing and collecting licensure fees as provided
17 in section 147.80.

18 6. Developing continuing education requirements as a
19 condition of license renewal.

20 7. Evaluating requirements for licensure in other states to
21 determine if reciprocity may be granted.

22 8. Adoption of rules providing temporary licensing for
23 persons providing orthotic, prosthetic, and pedorthic care
24 in this state prior to the effective date of this Act. A
25 temporary license is good for no more than one year.

26 **Sec. 9. NEW SECTION. 148F.4 Persons and practices not**
27 **affected.**

28 This chapter does not prevent or restrict the practice,
29 services, or activities of any of the following:

30 1. A person licensed in this state by any other law from
31 engaging in the profession or occupation for which the person
32 is licensed, including but not limited to persons set out in
33 section 147.1, subsections 3 and 6.

34 2. A person employed as an orthotics, prosthetics, or
35 pedorthics practitioner by the government of the United States

1 if that person practices solely under the direction or control
2 of the organization by which the person is employed.

3 3. A person pursuing a course of study leading to a degree
4 or certificate in orthotics, prosthetics, or pedorthics in an
5 educational program accredited or approved according to rules
6 adopted by the board, if the activities and services constitute
7 a part of a supervised course of study and the person is
8 designated by a title which clearly indicates the person's
9 status as a student, resident, or trainee.

10 Sec. 10. NEW SECTION. 148F.5 **Qualifications for licensure**
11 **as orthotist, prosthetist, or pedorthist.**

12 1. To qualify for a license to practice orthotics or
13 prosthetics, a person shall meet the following requirements:

14 a. Possess a baccalaureate degree from a college or
15 university.

16 b. Have completed the amount of formal training, including
17 but not limited to an orthotic and prosthetic education
18 program, and clinical practice established and approved by the
19 board.

20 c. Complete a clinical residency in the professional area
21 for which a license is sought in accordance with standards,
22 guidelines, or procedures for residencies established and
23 approved by the board. The majority of training must be
24 devoted to services performed under the supervision of a
25 licensed practitioner of orthotics or prosthetics or a person
26 certified as a certified orthotist, certified prosthetist,
27 or certified prosthetist orthotist whose practice is located
28 outside the state.

29 d. Pass all written, practical, and oral examinations that
30 are required and approved by the board.

31 e. Be qualified to practice in accordance with accepted
32 standards of orthotic and prosthetic care as established by the
33 board.

34 2. To qualify for a license to practice pedorthics, a person
35 shall meet the following requirements:

- 1 *a.* Submit proof of a high school diploma or its equivalent.
- 2 *b.* Have completed the amount of formal training, including
3 but not limited to a pedorthic education program, and clinical
4 practice established and approved by the board.
- 5 *c.* Complete a qualified work experience program or
6 internship in pedorthics that has a minimum of one thousand
7 hours of pedorthic patient care experience in accordance
8 with any standards, guidelines, or procedures established
9 and approved by the board. The majority of training must
10 be devoted to services performed under the supervision of a
11 licensed practitioner of pedorthics or a person certified as
12 a certified pedorthist whose practice is located outside the
13 state.
- 14 *d.* Pass all examinations that are required and approved by
15 the board.
- 16 *e.* Be qualified to practice in accordance with accepted
17 standards of pedorthic care as established by the board.
- 18 3. The standards and requirements for licensure established
19 by the board shall be substantially equal to or in excess of
20 standards commonly accepted in the professions of orthotics,
21 prosthetics, or pedorthics, as applicable. The board shall
22 adopt rules as necessary to set the standards and requirements.
- 23 4. A person may be licensed in more than one discipline.
- 24 Sec. 11. NEW SECTION. **148F.6 Assistants and technicians.**
- 25 1. *a.* A person shall not work as an assistant to an
26 orthotist or prosthetist or provide patient care services or
27 fabrication of orthoses or prostheses, unless the work is
28 performed under the supervision of a licensed orthotist or
29 prosthetist.
- 30 *b.* An assistant may perform orthotic or prosthetic
31 procedures and related tasks in the management of patient care.
32 An assistant may also fabricate, repair, and maintain orthoses
33 and prostheses.
- 34 2. *a.* A person shall not work as a technician unless
35 the work is performed under the supervision of a licensed

1 orthotist, prosthetist, or pedorthist.

2 *b.* A technician may assist a person licensed under this
3 chapter with fabrication of orthoses, prostheses, or pedorthic
4 devices but shall not provide direct patient care.

5 Sec. 12. NEW SECTION. 148F.7 **Limitation on provision of**
6 **care and services.**

7 A licensed orthotist, prosthetist, or pedorthist may provide
8 care or services only if the care or services are provided
9 pursuant to an order from a licensed physician, a licensed
10 podiatric physician, an advanced registered nurse practitioner
11 who has a written collaborative agreement with a collaborating
12 physician or podiatric physician that specifically authorizes
13 ordering the services of an orthotist, prosthetist, or
14 pedorthist, an advanced registered nurse practitioner who
15 practices in a hospital or ambulatory surgical treatment center
16 and possesses clinical privileges to order services of an
17 orthotist, prosthetist, or pedorthist, or a physician assistant
18 who has been delegated the authority to order the services of
19 an orthotist, prosthetist, or pedorthist by the assistant's
20 supervising physician. A licensed podiatric physician or an
21 advanced registered nurse practitioner collaborating with a
22 podiatric physician may only order care or services concerning
23 the foot from a licensed pedorthist or orthotist.

24 Sec. 13. NEW SECTION. 148F.8 **Penalties.**

25 1. If any person, company, or other entity violates a
26 provision of this chapter, the attorney general may petition
27 for an order enjoining the violation or for an order enforcing
28 compliance with this chapter. Upon the filing of a verified
29 petition in court, the court may issue a temporary restraining
30 order, without notice or bond, and may preliminarily and
31 permanently enjoin the violation. If it is established
32 that the person, company, or other entity has violated or is
33 violating the injunction, the court may punish the offender
34 for contempt of court. Proceedings under this section shall
35 be in addition to, and not in lieu of, all other remedies and

1 penalties provided in this chapter.

2 2. If a person practices as an orthotist, prosthetist,
3 or pedorthist or represents the person as such without being
4 licensed under the provisions of this chapter, then any other
5 licensed orthotist, pedorthist, or prosthetist, any interested
6 party, or any person injured by the person may petition for
7 relief as provided in subsection 1.

8 3. If a company or other entity holds itself out to provide
9 orthotic, prosthetic, or pedorthic services without having
10 an orthotist, prosthetist, or pedorthist licensed under the
11 provisions of this chapter on its staff to provide those
12 services, then any other licensed orthotist, prosthetist,
13 or pedorthist or any interested party or injured person may
14 petition for relief as provided in subsection 1.

15 Sec. 14. Section 272C.1, subsection 6, Code 2011, is amended
16 by adding the following new paragraph:

17 NEW PARAGRAPH. *ag.* The board of orthotics, prosthetics, and
18 pedorthics, created pursuant to chapter 147.

19 Sec. 15. INITIAL BOARD. The initial members of the board of
20 orthotics, prosthetics, and pedorthics established pursuant to
21 this Act shall be appointed to the following terms:

22 1. Two professional members eligible for licensure and one
23 public member shall be appointed for a term of two years.

24 2. One professional member eligible for licensure and one
25 public member shall be appointed for a term of one year.

26 EXPLANATION

27 This bill creates new Code chapter 148F that requires
28 the licensure of persons offering orthotic, prosthetic, or
29 pedorthic services. The bill provides for the establishment of
30 a five-member licensing board consisting of three professional
31 members and two members who represent the general public.

32 The bill provides for fees to fund the board and provides
33 penalties for violation of the practice requirement. The
34 penalties, including criminal penalties, are set out for all
35 health-related boards in Code chapters 147 and 272C. In

1 addition to penalties, the bill sets out several procedures for
2 enforcing compliance with this licensing law. The attorney
3 general may seek a judicial ruling to stop violations. That
4 same standing for court action is extended to any licensed
5 orthotist, pedorthist, or prosthetist, any interested party, or
6 any person injured by the violation. The board is similar in
7 composition and responsibilities to the other health-related
8 licensing boards.

9 Orthotics is the science and practice of evaluating,
10 measuring, designing, fabricating, assembling, fitting,
11 adjusting, or servicing a custom-fabricated or custom-fitted
12 brace or support for the correction or alleviation of
13 neuromuscular or musculoskeletal dysfunction, disease, injury,
14 or deformity.

15 Pedorthics is the science and practice of evaluating,
16 measuring, designing, fabricating, assembling, fitting,
17 adjusting, or servicing a specially designed shoe or shoe
18 insert for the correction or alleviation of neuromuscular or
19 musculoskeletal dysfunction, disease, injury, or deformity.

20 Prosthetics is the science and practice of evaluating,
21 measuring, designing, fabricating, assembling, fitting,
22 adjusting, or servicing an artificial medical device that is
23 not surgically implanted and that is used to replace a missing
24 limb, appendage, or any other external human body part.

25 The bill provides qualifications for licensure as an
26 orthotist, prosthetist, or pedorthist and requirements for
27 assistants and technicians to be supervised by such licensees.